

November 11, 2019

The Honorable Eddie Bernice Johnson  
Chairwoman, House Science, Space &  
Technology Committee  
2321 Rayburn House Office Building  
Washington, DC 20515

The Honorable Frank Lucas  
Ranking Member, House Science, Space &  
Technology Committee  
2321 Rayburn House Office Building  
Washington, DC 20515

Dear Chairwoman Johnson and Ranking Member Lucas:

The American Association for the Advancement of Science (AAAS) appreciates that the committee has scheduled a November 13 hearing to discuss the role of science in decision-making at the Environmental Protection Agency (EPA). When EPA issued its proposed rule, *Strengthening Transparency in Regulatory Science*, AAAS submitted public comments<sup>i</sup> articulating our concerns. In sum, AAAS strongly believes that the proposed rule would undermine EPA's ability to use the best available science in its policymaking process and ultimately restrict the use of science in its decisions.

As the publisher of the world's preeminent peer-reviewed scientific journal *Science*, we are committed to upholding the values of scientific peer review and to ensuring, to the maximum extent possible, the quality of information in support of the conduct of research and the dissemination of research results. In response to the EPA's proposed rule, the editors of several peer-reviewed journals, including *Science*, issued a rare joint statement noting that journal editorial standards of scientific journals "recognize the array of workflows across scientific fields and make the case for data sharing at different levels of stringency; in not every case can all data be fully shared." It further warned EPA that it "does not strengthen policies based on scientific evidence to limit the scientific evidence that can inform them; rather it is paramount that the full suite of relevant science vetted through peer review...inform the landscape of decision making."<sup>ii</sup>

The complexity surrounding access to scientific data utilized in regulations and policies deserves a thoughtful and rigorous discussion among the entities and stakeholders that comprise the public and private scientific community. EPA's initial proposed rule, if enacted, would set a dangerous precedent and a flawed standard that peer-reviewed scientific research data that is not publicly available is not rigorous enough for use in decision-making. This would be detrimental to the use of vetted evidence in public policy.

Requiring raw data to be made publicly available before a study can be utilized, or retroactively applying such a standard in decision-making, risks cutting off foundational research that has informed EPA's work for decades. AAAS believes that prior studies should be exempt, as many foundational studies regarding air quality and asthma and exposure to mercury and lead were conducted decades ago. It would be difficult and potentially impossible to make all the

underlying data fully accessible. Most of these studies have been reanalyzed, reassessed and/or reproduced by other institutions and countries. Applying a transparency rule to science retroactively would narrow the scope of scientific research available to the agency in its decision-making.

Another concern focuses on whether the proper checks and balances with appropriate oversight bodies are in place when determining what scientific information would be reanalyzed or reproduced by the agency. For example, AAAS recognizes that independent peer review is important, however, it was not clearly articulated who may serve as an independent peer reviewer and who makes the determination. Would a scientific advisory committee or a political appointee determine who may serve as an independent reviewer? In the proposed rule, the EPA Administrator had been named as the sole authority to grant exceptions in the proposed transparency rule. Since the agency addresses a wide range of scientific disciplines that intersect with the environment and public health, this exemption could eliminate the important role that relevant scientific advisors should play in the decision-making process.

The nation's judicial system also has recognized the importance of EPA having access to as much scientific information as possible to protect public health and the environment. In 2002, the D.C. Circuit Court argued that it would be "impractical and unnecessary" for the EPA to require that all underlying data be made public.<sup>iii</sup>

AAAS continues to urge EPA to consider carefully and deliberately, in concert with the scientific community and other stakeholder communities, any policy changes that could diminish the necessary role of scientific evidence in helping to make decisions that impact the health of all Americans.

Sincerely,



Alan I. Leshner  
Interim CEO and Executive Publisher

<sup>i</sup> <https://www.aaas.org/sites/default/files/s3fs-public/Comment%20on%20Proposed%20Rulemaking%20titled%20%22E%280%9CStrengthening%20Transparency%20in%20Regulatory%20Science%2C%280%9D%20Docket%20ID%20No.%20EPA-HQ-OA-2018-0259.pdf>

<sup>ii</sup> Berg, J., Campbell, P., Kiermer, V., Raikhel, N., Sweet, D. Joint statement on EPA proposed rule and public availability of data. *Science*. 2018 May 4:360(6388).

<http://science.sciencemag.org/content/early/2018/04/30/science.aau0116>.

<sup>iii</sup> <https://law.justia.com/cases/federal/appellate-courts/F3/283/355/484491>